

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT INDEPENDENCE

KENNETH SHIELDS,	)	
	)	
Plaintiff,	)	
	)	Case No:
vs.	)	
	)	Division:
SITE CENTERS CORP,	)	
Serve: Registered Agent	)	
CT Corporation	)	
120 South Central Ave., Ste. 400	)	
St. Louis, MO 63105	)	
	)	
Defendant.	)	<u>Jury Trial Demanded</u>

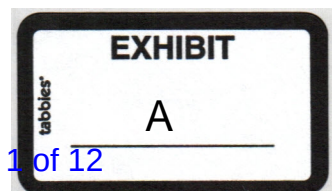
**PLAINTIFF'S PETITION FOR DAMAGES**

COMES NOW plaintiff Kenneth Shields and for his causes of action against defendant Site Centers Corp. alleges and states as follows:

1. Plaintiff Kenneth Shields is an adult resident and citizen of the State of Missouri, residing at 5217 Willow Ave., Kansas City, Jackson County, Missouri, 64133.

2. Defendant Site Centers Corp. is a foreign corporation authorized to conduct business in Missouri. At all relevant times, defendant was the owner, operator and/or manager of the Independence Commons retail facility -- located at 19000 East 39<sup>th</sup> Street, Independence, Jackson County, Missouri, 64057.

3. At all relevant times, defendant generally availed itself of the privilege of doing business in the State of Missouri. Defendant owned, operated



and/or managed the Independence Commons retail facility in Jackson County, Missouri, committed a tort in Jackson County, Missouri, and is otherwise subject to the personal jurisdiction of this Court.

4. Plaintiff was injured by the tortious acts and omissions of defendant in the eastern portion of Jackson County, Missouri, and therefore venue is appropriate in this Court.

#### **ALLEGATIONS COMMON TO ALL CLAIMS**

5. In October 2019, defendant was the owner, operator and/or manager of the Independence Commons retail facilities -- located at 19000 East 39<sup>th</sup> Street, Independence, Jackson County, Missouri. At all relevant times, defendant owned, managed and/or controlled the common premises in and around the AMC Theatres at the Independence Commons retail facility.

6. On October 26, 2019, plaintiff and his wife were at the Independence Commons retail complex and had parked their car in the parking lot in front of the AMC Theatre. Plaintiff and his wife got out of their car and were walking toward the theatre. The concrete curb in front of the AMC Theatre was painted red. As plaintiff was walking toward the AMC Theatre, his normal walking gait was such that he stepped on top of the concrete curb with one of his feet. At that moment, plaintiff's foot landed in a hole/defect in the top of the concrete curb, where a chunk of concrete had fallen out --- this caused plaintiff to fall hard to the concrete surface. As a direct result of the fall, plaintiff suffered significant injuries -- including a fractured right wrist.

7. No signs or any form of warning was provided to alert plaintiff about the dangerous condition (i.e., the hole/defect in the curb) of the customer walking area in front of the AMC Theatre. Indeed, the red paint applied over the hole/defect served to disguise the hole/defect.

#### **COUNT I – PREMISES LIABILITY**

8. Plaintiff restates and incorporates by reference each of the above allegations.

9. On or about October 26, 2019, plaintiff was lawfully present at the Independence Commons retail premises -- which was owned, operated and/or controlled by defendant -- located at 19000 East 39<sup>th</sup> Street, Independence, Missouri.

10. On or about October 26, 2019, a dangerous condition existed on defendant's business premises. More specifically, the hole/defect on the top of the concrete curb -- which caused plaintiff's fall and injuries -- was located in an area open to and routinely used by customers, including plaintiff, thus creating a trip/fall hazard.

11. Defendant had a duty to exercise ordinary care to maintain the business premises in a reasonably safe condition -- free from dangerous conditions -- and owed a duty to plaintiff to warn of the existence of the dangerous condition described above and/or to remedy the dangerous condition in a timely manner.

12. Defendant needlessly and recklessly endangered plaintiff and was negligent in failing to timely remedy the hole/defect and failing to properly maintain the walking area in front of the movie theatre, and defendant was further negligent in failing to warn plaintiff of the dangerous condition.

13. By and through its agents, servants and/or employees, defendant was actually aware of the dangerous condition and/or should have been aware of the dangerous condition by exercising ordinary care and due diligence.

14. As a direct and proximate result of the dangerous condition of the premises, on or about October 26, 2019, plaintiff stepped into the hole/defect in the curb and tripped and fell hard to the concrete walking surface, causing significant injuries to plaintiff -- including a fractured right wrist.

15. As a direct and proximate result of defendant's acts and omissions, as described above, plaintiff has suffered damages/injuries for pain and suffering, disability, permanent disfigurement and scarring, past and future lost wages, and loss of enjoyment of life. Plaintiff's injuries and damages are continuing.

16. As a direct and proximate result of defendant's acts and omissions, as described above, plaintiff has incurred damages/injuries for medical treatment and services. Plaintiff's injuries and damages are continuing.

WHEREFORE, plaintiff Kenneth Shields prays for judgment against defendant in an amount that will fairly and justly compensate plaintiff for his injuries and damages – in an amount in excess of \$25,000.00; for costs incurred herein; and for such other and further remedies, orders, judgments and decrees as the Court deems just under the circumstances.

#### **COUNT II -- NEGLIGENCE**

17. Plaintiff restates and incorporates by reference each of the allegations stated above.



18. Defendant had a duty to exercise ordinary and reasonable care to protect plaintiff from injury while plaintiff was lawfully at the business premises, and to warn against and remedy any danger that might be reasonably anticipated.

19. Defendant breached its duty of care and was thereby negligent in (a) failing to timely and properly inspect the walking area – including the curb -- in front of the AMC Theatre to ensure that the pedestrian/customer walking area was in a reasonably safe condition for the ordinary and intended use by customers; (b) failing to maintain the pedestrian/customer walking area in front of the AMC Theatre in a reasonably safe condition; (c) failing to timely repair the holes/defects in the concrete curb in front of the AMC Theatre; (d) failing to adequately supervise the inspection and/or maintenance of the pedestrian/customer walking area in front of the AMC Theatre; and (e) failing to warn plaintiff about the dangerous condition.

20. The negligent acts and/or omissions stated herein were committed by employees, servants and/or agents of defendant while acting in the ordinary course and scope of their employment/agency. As a result, defendant is liable to plaintiff for the negligent acts and omissions of its employees, servants and/or agents pursuant to the doctrine of *respondeat superior*.

21. As a direct and proximate result of defendant's negligent acts and/or omissions, plaintiff has suffered actual damages/injuries including pain and suffering, permanent disfigurement and scarring, past and future lost wages, and loss of enjoyment of life. Plaintiff's damages and injuries are continuing.

22. As a direct and proximate result of defendant's negligent acts and/or omissions, plaintiff has suffered actual damages/injuries including charges for medical treatment and services. Plaintiff's damages and injuries are continuing.

WHEREFORE, plaintiff Kenneth Shields prays for judgment against defendant in an amount that will fairly and justly compensate plaintiff for his injuries, in an amount in excess of \$25,000.00; for costs incurred herein; and for such other and further remedies, orders, judgments and decrees as the Court deems just under the circumstances.

#### **DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial on all issues triable by jury.

GUSTAFSON LAW LLC

By: 

Craig E. Gustafson MO #35024

3145 Broadway

Kansas City, Missouri 64111

Ph: 816-960-7121

Fax: 816-561-3939

[craig@gustafsonlawkc.com](mailto:craig@gustafsonlawkc.com)

*Attorney for Plaintiff*

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT INDEPENDENCE**

**KENNETH SHIELDS,**

**PLAINTIFF(S),**

**VS.**

**CASE NO. 2216-CV00102  
DIVISION 16**

**SITE CENTERS CORP,**

**DEFENDANT(S).**

**NOTICE OF CASE MANAGEMENT CONFERENCE FOR CIVIL CASE  
AND ORDER FOR MEDIATION**

---

NOTICE IS HEREBY GIVEN that a Case Management Conference will be held with the Honorable **MARCO A ROLDAN** on **27-APR-2022** in **DIVISION 16** at **08:30 AM**. All Applications for Continuance of a Case Management Conference should be filed on or before Wednesday of the week prior to the case management setting. Applications for Continuance of a Case Management Conference shall comply with Supreme Court Rule and 16<sup>th</sup> Cir. R. 34.1. Continuance of a Case Management Conference will only be granted for good cause shown because it is the desire of the Court to meet with counsel and parties in all cases within the first 4 months that a case has been on file. All counsel and parties are directed to check Case.NET on the 16<sup>th</sup> Judicial Circuit web site at [www.16thcircuit.org](http://www.16thcircuit.org) after filing an application for continuance to determine whether or not it has been granted.

A lead attorney of record must be designated for each party as required by Local Rule 3.5.1. A separate pleading designating the lead attorney of record shall be filed by each party as described in Local Rule 3.5.2. The parties are advised that if they do not file a separate pleading designating lead counsel, even in situations where there is only one attorney representing the party, JIS will not be updated by civil records department, and copies of orders will be sent to the address currently shown in JIS. Civil Records does not update attorney information from answers or other pleadings. The Designation of Lead Attorney pleading shall contain the name of lead counsel, firm name, mailing address, phone number, FAX number and E-mail address of the attorney who is lead counsel.

At the Case Management Conference, counsel should be prepared to address at least the following:

- a. A trial setting;
- b. Expert Witness Disclosure Cutoff Date;
- c. A schedule for the orderly preparation of the case for trial;
- d. Any issues which require input or action by the Court;
- e. The status of settlement negotiations.

### **MEDIATION**

The parties are ordered to participate in mediation pursuant to Supreme Court Rule 17. Mediation shall be completed within 10 months after the date the case is filed for complex cases, and 6 months after the date the case is filed for other circuit cases, unless otherwise ordered by the Court. Each party shall personally appear at the mediation and participate in the process. In the event a party does not have the authority to enter into a settlement, then a representative of the entity that does have actual authority to enter into a settlement on behalf of the party shall also personally attend the mediations with the party.

The parties shall confer and select a mutually agreeable person to act as mediator in this case. If the parties are unable to agree on a mediator the court will appoint a mediator at the Case Management Conference.

Each party shall pay their respective pro-rata cost of the mediation directly to the mediator.

### **POLICIES/PROCEDURES**

Please refer to the Court's web page [www.16thcircuit.org](http://www.16thcircuit.org) for division policies and procedural information listed by each judge.

**/S/ MARCO A ROLDAN**

**MARCO A ROLDAN, Circuit Judge**

### **Certificate of Service**

This is to certify that a copy of the foregoing was electronic noticed, faxed, emailed and/or mailed or hand delivered to the plaintiff with the delivery of the file-stamped copy of the petition. It is further certified that a copy of the foregoing will be served with the summons on each defendant named in this action.

**Attorney for Plaintiff(s):**

CRAIG E GUSTAFASON, GUSTAFSON LAW LLC, 3145 BROADWAY, KANSAS CITY, MO 64111

**Defendant(s):**

SITE CENTERS CORP

Dated: 04-JAN-2022

MARY A. MARQUEZ  
Court Administrator



IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

Kenneth Shields, plaintiff, )  
 )  
 Vs. ) Case No: 2216-CV00102  
 )  
 Site Centers Corp., defendant ) Division: 16  
 )

MOTION FOR APPROVAL AND APPOINTMENT OF PRIVATE PROCESS SERVER

COMES NOW plaintiff, by and through his attorney of record, and for plaintiff's Motion for Approval and Appointment of Private Process Server, hereby requests that D&B Legal Services, Inc.: Legal Names (s):

Alisha Allen PPS22-0001	James Hise PPS22-0294	William Powell PPS22-0077
Sallie Bailey PPS22-0003	Tawanda Johnson PPS22-0166	Kim Presler PPS22-0078
Carl Barnett PPS22-0254	Patrick Jones PPS22-0167	Mark Rauss PPS22-0082
Thomas Bogue PPS22-0118	Chelsea Ketron PPS22-0044	Jorge A Rivera PPS22-0214
Matthew Bohrer PPS22-0258	Leisa Ketron PPS22-0045	Jason Rodgers PPS22-0088
Arthur Boyer PPS22-0006	Brent Kirkhart PPS22-0046	Richard Roth PPS22-0091
Scott Brady PPS22-0008	Janice Kirkhart PPS22-0047	Kathy Rulo PPS22-0338
Nicholas Bull PPS22-0011	Tyler Kirkhart PPS22-0048	Edna Russell PPS22-0093
Gary Burt PPS22-0012	Cody Kyser PPS22-0049	Brenda Schiwitz PPS22-0094
Bobby Calvert PPS22-0124	Raymond Land PPS22-0303	Dylan Schneider PPS22-0340
Carolyn Champlin PPS22-0013	Frank Lundien PPS22-0055	Mark Schneider PPS22-0341
Michael Conklin PPS22-0267	Chad Maier PPS22-0312	Westley Seifert PPS22-0220
Lisa Corbett PPS22-0269	Lyle Malcom PPS22-0313	Thomas Skinner PPS22-0224
Norman Diggs PPS22-0274	Kenneth Marshall PPS22-0057	Richard Skyles PPS22-0095
Edwina Ditmore PPS22-0275	Michael Meador PPS22-0060	Anthony Spada PPS22-0228
Andrew Downs PPS22-0016	Maria Meier PPS22-0315	Randy Stone PPS22-0229
Chris Drummond PPS22-0017	Heather Merfen PPS 22-0061	Carrie Stroup PPS22-0350
William Ferrell PPS22-0022	Matthew Millhollin PPS22-0062	Robert Torrey PPS22-0355
Robert Finley PPS22-0023	Angela Molt PPS22-0064	Lucas Traugott PPS22-0356
Dana Fortner PPS22-0286	Jason Moody PPS22-0065	Daniel Wagner PPS22-0099
John Frago PPS22-0026	Jeremy Nicholas PPS22-0194	Kenneth Wallace PPS22-0100
Brad Gordon PPS22-0144	Michael Noble PPS22-0196	Ryan Weekley PPS22-0101
Tom Gorgone PPS22-0145	Greg Noll PPS22-0068	Andrew Wheeler PPS22-0103
Charles Gunning PPS22-0028	Tory Owens PPS22-0071	Andrew Wickliffe PPS22-0104
James Hannah PPS22-0030	Bob Peters PPS22-0327	Gregory Willing PPS22-0105
Rufus Harmon PPS22-0031	Carrie Pfeifer PPS22-0203	Conni Wilson PPS22-0107
Zackery Hayes PPS22-0033	Craig Poesse PPS22-0073	Allen Yoder PPS22-0366
Stephen Heitz PPS22-0035	Anthony Powell PPS22-0329	Rod Yoder PPS22-0367
Bridgette Hight PPS22-0293	Dee Powell PPS22-0075	Stan Yoder PPS22-0368
Wendy Hilgenberg PPS22-0037	Samantha Powell PPS22-0076	Greg Zotta PPS22-0110

who are qualified persons to serve process, are not parties to the case and are not less than eighteen (18) years of age, be approved and appointed as private process servers in the above cause to serve process in this case.

By: 

Craig E. Gustafson, MO Bar # 35024

ORDER

It is hereby ordered that the plaintiff's Motion for Approval and Appointment of private process server is granted and the above-named individuals are hereby approved and appointed to serve process in the above-captioned matter.

Date: \_\_\_\_\_

\_\_\_\_\_  
Judge or Clerk

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

Kenneth Shields, plaintiff,  
Vs.  
Site Centers Corp., defendant

)  
)  
)  
)  
)  
)

Case No: 2216-CV00102  
Division: 16

MOTION FOR APPROVAL AND APPOINTMENT OF PRIVATE PROCESS SERVER

COMES NOW plaintiff, by and through his attorney of record, and for plaintiff's Motion for Approval and Appointment of Private Process Server, hereby requests that D&B Legal Services, Inc.: Legal Names (s):

Alisha Allen PPS22-0001	James Hise PPS22-0294	William Powell PPS22-0077
Sallie Bailey PPS22-0003	Tawanda Johnson PPS22-0166	Kim Presler PPS22-0078
Carl Barnett PPS22-0254	Patrick Jones PPS22-0167	Mark Rauss PPS22-0082
Thomas Bogue PPS22-0118	Chelsea Ketron PPS22-0044	Jorge A Rivera PPS22-0214
Matthew Bohrer PPS22-0258	Leisa Ketron PPS22-0045	Jason Rodgers PPS22-0088
Arthur Boyer PPS22-0006	Brent Kirkhart PPS22-0046	Richard Roth PPS22-0091
Scott Brady PPS22-0008	Janice Kirkhart PPS22-0047	Kathy Rulo PPS22-0338
Nicholas Bull PPS22-0011	Tyler Kirkhart PPS22-0048	Edna Russell PPS22-0093
Gary Burt PPS22-0012	Cody Kyser PPS22-0049	Brenda Schiwitz PPS22-0094
Bobby Calvert PPS22-0124	Raymond Land PPS22-0303	Dylan Schneider PPS22-0340
Carolyn Champlin PPS22-0013	Frank Lundien PPS22-0055	Mark Schneider PPS22-0341
Michael Conklin PPS22-0267	Chad Maier PPS22-0312	Westley Seifert PPS22-0220
Lisa Corbett PPS22-0269	Lyle Malcom PPS22-0313	Thomas Skinner PPS22-0224
Norman Diggs PPS22-0274	Kenneth Marshall PPS22-0057	Richard Skyles PPS22-0095
Edwina Ditmore PPS22-0275	Michael Meador PPS22-0060	Anthony Spada PPS22-0228
Andrew Downs PPS22-0016	Maria Meier PPS22-0315	Randy Stone PPS22-0229
Chris Drummond PPS22-0017	Heather Merfen PPS 22-0061	Carrie Stroup PPS22-0350
William Ferrell PPS22-0022	Matthew Millhollin PPS22-0062	Robert Torrey PPS22-0355
Robert Finley PPS22-0023	Angela Molt PPS22-0064	Lucas Traugott PPS22-0356
Dana Fortner PPS22-0286	Jason Moody PPS22-0065	Daniel Wagner PPS22-0099
John Frago PPS22-0026	Jeremy Nicholas PPS22-0194	Kenneth Wallace PPS22-0100
Brad Gordon PPS22-0144	Michael Noble PPS22-0196	Ryan Weekley PPS22-0101
Tom Gorgone PPS22-0145	Greg Noll PPS22-0068	Andrew Wheeler PPS22-0103
Charles Gunning PPS22-0028	Tory Owens PPS22-0071	Andrew Wickliffe PPS22-0104
James Hannah PPS22-0030	Bob Peters PPS22-0327	Gregory Willing PPS22-0105
Rufus Harmon PPS22-0031	Carrie Pfeifer PPS22-0203	Conni Wilson PPS22-0107
Zackery Hayes PPS22-0033	Craig Poese PPS22-0073	Allen Yoder PPS22-0366
Stephen Heitz PPS22-0035	Anthony Powell PPS22-0329	Rod Yoder PPS22-0367
Bridgette Hight PPS22-0293	Dee Powell PPS22-0075	Stan Yoder PPS22-0368
Wendy Hilgenberg PPS22-0037	Samantha Powell PPS22-0076	Greg Zotta PPS22-0110

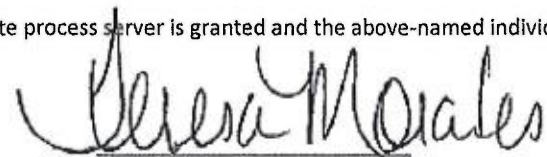
who are qualified persons to serve process, are not parties to the case and are not less than eighteen (18) years of age, be approved and appointed as private process servers in the above cause to serve process in this case.

By:  Craig E. Gustafson, MO Bar # 35024

ORDER

It is hereby ordered that the plaintiff's Motion for Approval and Appointment of private process server is granted and the above-named individuals are hereby approved and appointed to serve process in the above-captioned matter.

Date: 25-Jan-2022

  
DEPUTY COURT ADMINISTRATOR



# IN THE 16TH JUDICIAL CIRCUIT COURT, JACKSON COUNTY, MISSOURI

Judge or Division: MARCO A ROLDAN	Case Number: 2216-CV00102
Plaintiff/Petitioner: KENNETH SHIELDS	Plaintiff's/Petitioner's Attorney/Address CRAIG E GUSTAFASON GUSTAFSON LAW LLC 3145 BROADWAY KANSAS CITY, MO 64111
Defendant/Respondent: SITE CENTERS CORP	Court Address: 308 W Kansas INDEPENDENCE, MO 64050
Nature of Suit: CC Pers Injury-Other	

(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: SITE CENTERS CORP  
Alias:

## PRIVATE PROCESS SERVER

SRV RA: CT CORPORATION  
120 S CENTRAL AVE STE 400  
CLAYTON, MO 63105

COURT SEAL OF



JACKSON COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

25-JAN-2022

Date

Clerk

Further Information:

## Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

- ☐ delivering a copy of the summons and petition to the defendant/respondent.  
☐ leaving a copy of the summons and petition at the dwelling place or usual abode of the defendant/respondent with a person at least 18 years of age residing therein.  
☐ (for service on a corporation) delivering a copy of the summons and petition to

\_\_\_\_\_ (name) \_\_\_\_\_ (title).

☐ other \_\_\_\_\_

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

(Seal)

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on \_\_\_\_\_ (date).

My commission expires: \_\_\_\_\_

Date

Notary Public

## Sheriff's Fees

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$.\_\_\_\_\_ per mile)

Total \$ \_\_\_\_\_

A copy of the summons and petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



## **SUMMONS/GARNISHMENT SERVICE PACKETS ATTORNEY INFORMATION**

Under the Missouri e-filing system now utilized by the 16<sup>th</sup> Judicial Circuit Court, once a case has been accepted for filing, a clerk prepares the necessary documents for service. The summons/garnishment is sent to the attorney by an e-mail containing a link so that the filer may print and deliver the summons/garnishment, pleadings and any other necessary documents to the person designated to serve the documents.

Pursuant to State statutes, Supreme Court Rules and Local Court Rules, attorneys are required to print, attach and serve specific documents with certain types of Petitions and other filings.

Please refer to the Court's website for instructions on how to assemble the service packets at:

16thcircuit.org → Electronic Filing Information → Required Documents for Service – eFiled cases → Summons/Garnishment Service Packet Information.

Please review this information periodically, as revisions are frequently made. Thank you.

Circuit Court of Jackson County